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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,670	06/08/2005	Wolfgang Kossl	566/43619	8601
23646 7590 02/26/2009 BARNES & THORNBURG LLP 750-17TH STREET NW SUITE 900 WASHINGTON, DC 20006-4675				
EXAMINER				
TANG, JEFF				
ART UNIT		PAPER NUMBER		
3634				
MAIL DATE		DELIVERY MODE		
02/26/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/522,670

Applicant(s)

KOSSL, WOLFGANG

Examiner

Jeff Tang

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/1/08 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265 B1) in view of Lazorchak (US 5,739,605).** Fink discloses a door actuator of rail vehicles comprising, a spindle drive (12) and a freewheel (23) wherein the spindle drive has a spindle that is connected with the free wheel permitting rotation of the spindle in a direction corresponding to a closing direction of a door and preventing the rotation of the spindle in a direction corresponding to an opening direction of the door, a part of the freewheel positioned away from the spindle being rotatably mounted but being releasably fixed with respect to a release device by force of at least one contact pressure spring in cooperation with a releasable coupling (29)

wherein the coupling is fixable in an open released positions and a lifting magnet configured to release the releasable coupling from a closed locked position (column 4, line 16), but does not disclose the lifting magnet acting as both a closing and lifting. However, Lazorchak discloses a lifting magnet (4) configured to release the releasable coupling from a closed locked position wherein the lifting magnet is configured to act as a closing magnet configured to lock the coupling in the closed locked position (Column 3, lines 39-60) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have include a magnet that lifts and locks as taught by Lazorchak. The motivation for doing so would be to create a stable locking and unlocking of the brake.

Regarding claims 3 and 5, Fink discloses a door actuator wherein the releasable coupling is configured to operate by a linkage (14) having a dead center position between a released position of the linkage and a locked position of the linkage (Column 5, lines 22-24); [claim 5] wherein the releasable coupling is movable between a releasable coupling released position and a releasable coupling locked position, and the releasable coupling includes a non-rotatable toothed disc (25, Column 6, lines 8-10), which is displaceable with respect to the release device axially against a force of the at least one contact pressure spring.

4. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265) and Lazorchak (US 5,739,605) in view of Foelix et al. (US 4,148,377).** Fink discloses the linkage (14) having a lever (24) which can be swiveled about an lever axis, wherein the first arm of the swiveling lever is connected to the lifting

magnet, the lever moving the coupling between the released and locked positions. Fink does not disclose the other end being coupled to a roller. However, Foelix et al. disclose an actuator that has a locking mechanism with a roller (17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified Fink's invention to have included a roller. The motivation for doing so would be to create an appropriate dead center position.

5. **Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265) and Lazorchak (US 5,739,605) in view of Bittner et al. (US 2005/0173219).** Fink does not go into detail about the magnet, however, Bittner et al. disclose at least one permanent magnet (15) that has ferromagnetic material (6) and is positioned in relation to at least one permanent magnet that the attraction force of the at least one permanent magnet exceeds the force of the at least one contact pressure spring (21,22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have included such magnets so that the force can sustain whatever position the rail door is in.

Regarding claim 7, the combination of Fink and Bittner et al. disclose the movable part (25) rests on the at least one permanent magnet when the releasable coupling is in the released position (Fig. 1, Bittner et al.).

Regarding claim 8, Lazorchak disclose a plurality of permanent magnets positioned along a circle extending concentrically with respect to an axis of the spindle (10, Fig. 8).

Response to Arguments

6. Applicant's arguments with respect to claims 1, and 3-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Tang whose telephone number is (571) 270-5223. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. T./
Examiner, Art Unit 3634

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634